

Sales of intangible personal property are not taxable under the Retailers' Occupation Tax Act. 86 Ill. Adm. Code 130.120. (This is a PLR).

November 18, 2002

Dear Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (see www.revenue.state.il.us/Laws/regs/part1200/), is in response to your letter of September 12, 2002. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to TAXPAYER for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither TAXPAYER nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter, you have stated and made inquiry as follows:

On behalf of my client, Taxpayer, I hereby request a letter ruling regarding the taxability of various sales. I have enclosed a copy of my IL-2448 Power of Attorney.

Taxpayer plans to offer 'AAA' name licenses for sale to business customers in the State of Illinois. A 'AAA' name license is another name for an internet domain name license. Taxpayer purchases a 'AAA' name license from an internet domain name Registration Company. The Registration Company has the right to initially assign a specific 'AAA' name license. The Registration Company then grants Taxpayer a license to use a specific 'AAA' name license, for example 'travel.com' or 'law.com', for a period of time, usually two years. The Taxpayer then will offer to sell these 'AAA' name licenses to other Illinois Businesses.

Taxpayer's 'AAA' name licenses will be kept in CITY, Illinois. Accordingly the 'company headquarters' is in CITY, Illinois. All sales will take place in the CITY.

The taxpayer already owns several 'AAA' name licenses. Due to the unique nature of the 'AAA' name licenses the sales process is a very complex one that involves several meetings and consultation with potential business customers, usually at the customer's office or at the Taxpayers internet site to discuss the possible terms of any transaction. The Taxpayer sells the 'AAA' name licenses through his internet site and direct client contact. Ultimately, each sale is consummated in a similar manner. The license to the 'AAA' name license is transferred to the business customer after it is paid for.

The pricing components for the 'AAA' name license are based on:

- a. the price the business customers are willing to pay (subjective appreciation/market base);
- b. costs of the 'AAA' name license;
- c. service charges associated with transferring the 'AAA' name license;

d. costs of advertising the 'AAA' name licenses for sales.

The foregoing sales will be consummated in the State of Illinois.

Litigation is not pending with the Illinois Department of Revenue (Department) involving the Taxpayer or the issues presented above. Further the Taxpayer certifies that (1) the Department has not previously ruled on the same or similar issues presented below for the Taxpayer or the predecessor; and (2) neither the Taxpayer nor any representative of the Taxpayer has previously submitted the same or similar issues to those presented to the Department.

According to Illinois Department of Revenue Regulations, Title 86, Part 130.120 nontaxable transactions: the retailers occupation tax does not apply to receipts for sales of 'intangible personal property'. It is our position that the sale of the 'AAA' name licenses are a sale of 'intangible personal property'.

Therefore, the Taxpayer requests a ruling that each sale the Taxpayer makes of a 'AAA' name license, in accordance with the procedures discussed herein, at the Taxpayer's company headquarters in CITY, Illinois, should be exempt from sales and/or the retailer's occupation tax.

Thank you for your assistance in assigning Taxpayer a private ruling on sales tax exemption for his 'AAA' name licenses. Please feel free to contact me with any questions.

You correctly cite 86 Ill. Adm. Code 130.120 that states that intangible personal property is not subject to tax. Sales of the "AAA" name licenses are sales of intangible personal property and are therefore not subject to taxation under the Retailers' Occupation Tax Act.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions concerning this Private Letter Ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.revenue.state.il.us or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Melanie A. Jarvis
Associate Counsel

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